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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 494

PURITAN CHURCH BUILDING FUND, HARRISON PARKER AND EDITH S. PARKER, Trustees, *Petitioner*

v.

UNITED STATES OF AMERICA, ET AL.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

PETITIONER'S PETITION FOR A REHEARING

PURITAN CHURCH BUILDING FUND
REV. HARRISON PARKER
EDITH S. PARKER
Trustees

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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On both sides, this is a bitter 10 year old litigation in the U. S. Courts, over a $326,000. income tax assessment made by the Commissioner of Internal Revenue against the income tax exempt Puritan Church of America, and the seizure by the Government of the United States, of $106,000. cash from the Church's Bible and Building Trust Fund in the custody of the Greenwich Trust Company at Greenwich, Connecticut.

The Supreme Court of the United States denied certiorari. This petition is for a rehearing on that denial.

By rule 58, page 58 of the "Revised Rules of the Supreme Court of the United States effective July 1st 1954," a petitioner for a rehearing is compelled to state "briefly and distinctly" the reason why the Supreme Court should grant the request. Following is a petition for a rehearing, in full compliance with this rule of the court:

In its petition for a Writ of Certiorari filed by the Church in the Supreme Court of the United States, the Church charged:

1—that John W. Burns a U. S. Revenue Agent had defied the authority of the Congress of the United States to grant income tax exemption to all churches in the United States, which had met its requirements in Section 101(6) of the Internal Revenue Code; that the Puritan Church of America had met all those requirements;

2—that despite that exemption, Mr. Burns had assessed a $326,000 Income Tax against the church and had confiscated $106,000.00 cash, in said Church's Bible and Building Trust Fund in the custody of the Greenwich Trust Company, as a part payment on this unconscionable income tax against an income tax exempt Protestant Church: that Mr. Burn's personal income tax assessment against the Puritan Church was void; that the proceedings by the Commissioner against the church were void ab inito;

3—that the Puritan Church had in the income tax exemption granted to it by the Congress, a property right of which it could not be deprived,

except by due process of law; that the void income tax assessment by Mr. Burns against the church, was not due process;

4—that Mr. Burn's law violations in making such an assessment, had been reported by the Church to the Tax Court at Washington, D. C.;

5—that the Tax Court in a decision dated September 28th, 1951 upheld each and every law violation admitted by Mr. Burns;

6—that this decision of the Tax Court had been written by the hoodlum's law firm of Kirkland, Fleming, Green, Martin and Ellis, in the Chicago offices of the hoodlums;

7—that the Tax Court was without jurisdiction to write such a decision; that the decision of the Tax Court was void; that this fraudulent and void decision of the Tax Court was appealed for review, to the United States Court of Appeals for the District of Columbia Circuit;

8—that the Chicago hoodlums had either influenced, intimidated, or bribed the United States Court of Appeals at Washington, D. C., to uphold the law violations of the Tax Court;

9—that the United States Court of Appeals for the District of Columbia Circuit did not have the jurisdiction to review that decision of the Tax Court.

In reply to these serious charges, the government of the United States filed in the Supreme Court of the United States a brief over the signature of J. Lee Rankin, the Solicitor General of the United States; in that brief the Government of the United States admitted the truth of each and every charge stated above.

CONCLUSION

The direct Puritan sires of the petitioner were familiar with the age-old struggle for "equal justice under law." In the Battle of Concord, April 19, 1775, led by the Puritan Captain John Parker, they secured for themselves and posterity, in a written constituion, every right that had been wrested from unnatural power, with the spilling of blood on the field of battle.

This petition for a rehearing is an appeal from the children in the 10th generation born on United States soil of the family of Puritan men which is in direct descent from Deacon Thomas Parker who founded the first Puritan Church at Reading, Mass. in the year 1942, to the Supreme Court of the United States, for the protection for the church of their fathers, of the due process clause in the Constitution of the United States, which was secured for them by the blood of their direct sires spilled on the battle fields of Concord and Valley Forge. (tr. 478)

In this court's pronouncement in the case of *Holland v. United States*, 348 U.S. 121, Justice Clark beheld the peril to our form of government, in income tax assessments computed arbitrarily and capriciously. There, the Court said, inter alia, "While sound administration of the criminal law requires that the net worth—a powerful method of proving otherwise un-

deterable offenses—should not be denied the Government, its failure to investigate leads furnished by the tax payer might result in serious injustices. It is, of course, not for us to prescribe investigative procedures, but it is within the province of the Court to pass upon the sufficiency of the evidence to convict. When the Government rests its case solely on the approximations and circumstantial inference of a net worth computation, the cogency of its proof depends upon its effective negation of reasonable explanation by the taxpayer inconsistent with guilt. Such refutation might fail when the Government does not track down relevent leads furnished by the taxpayer—leads reasonably susceptible of being checked, which, if true, would establish the tax payer's innocence. When the Government fails to show an innvestigation into the validity of such leads, the trial Judge may consider them as true and the Government's case as insufficient to go to the Jury."

The learned Justice in his opinion further said at page 136, that: "This should aid in forestalling unjust prosecutions, and have the practical advantage of eliminating the dilemma, especially serious in this type of case, of accused's being forced by the risk of an adverse verdict, to come forward to substantiate leads which he had previously furnished the Government." While the *Holland* case, *supra*, embaced a criminal income tax prosecution, its reasoning is clearly applicable to the instant case:

In a criminal conspiracy by the Chicago hoodlums to wound the Puritan Church, by the use of a "100% gross bank deposit income tax assessment," the government of the United States requested and received from the Puritan Church, copies of all its bank state-

ments. At that time, all of the churches financial records were tendered by the Puritan Church to the U. S. Government; the government accepted only the "bank statements". (See the undisputed testimony of V. V. Sugg, U. S. Postal Inspector, and Adolph Anderson, cashier of the Montague State Bank, which is abstracted in the Appendix herein).

"These "bank statements" were the property of the Puritan Church; it had paid for their preparation at its bank at Montague, Michigan, and their delivery to Mr. V. V. Sugg, U. S. Post Office Inspector; they were a part of the book-keeping system of the Church; they were loaned by the church to the Government of the United States for honorable use. By these "bank statements" being in the possession of an agent of the Government, the Government of the United States was "on notice" that the Puritan Church had books which were available to the Government. Then, the Government of the United States, all of its agents, all of its courts, including this court, were honor bound, and bound by law, to use those "bank statements" as the Internal Revenue Code limits, and not otherwise.

V. V. Sugg, delivered those "bank statements" to Mr. Looby Assistant U. S. Attorney; he allowed access to those honor bound documents, to John W. Burns, U. S. Revenue Agent; in violation of honor and in violation of the law of the Congress stated in the Internal Revenue Code, he used the sum total of the "deposit" items on the Puritan Churches "bank statements", as his income tax assessment against the income tax exempt Puritan Church; in accepting all the "deposit" items, he arbitrarily and capriciously rejected all the "withdrawal" items in juxaposition on the same "bank statements." In plain English, an agent of

the Government of the United States, in important litigation, "suppressed evidence" in his possession, in order to gain money for the Treasury of the United States.

In a criminal prosecution, where the prosecutor was in possession of evidence which would tend to exonerate the defendant, it was denial of due process of law to such defendant in the withholding of such evidence. See *Al Carta* v. *Texas*, 355 U.S. 28. The $106,000 cash, confiscated to the U. S. Treasury from the Puritan Church Building Fund, upon Mr. Burn's "100% gross bank deposit income tax assessment" was confiscated without due process of law. (See abstract of John W. Burn's undisputed testimony in the Appendix herein)

Had Mr. Burns acted legally and honorably, as all agents of the Government of the United States should, he could have introduced in important litigation, evidence which would have shown the Puritan Church to have been innocent of the charge of fraud always implied in "100% gross bank deposit income tax assessment", and in the "net worth" income tax assessments which offended the sense of justice of this court in *Holland* v. *United States*.

When the undisputed testimony of John W. Burns, also Adolph Anderson and V. V. Sugg was recorded in the United States Tax Court in tax case 25701, there was indelibly in a United States Court record, ample evidence to prove:

1—that the income tax assessment made by Mr. Burns against the income tax exempt Puritan Church was void;

2—that the proceedings of the Commissioner of Internal Revenue based on this void assessment, were void ab initio;

3—that the Puritan Church had been denied due process of law;

4—that the United States Tax Court was without jurisdiction in this litigation.

The Court record in this litigation as it now exists, is a disgrace to the legal profession of the United States; it permits an irresponsible Revenue Agent to make an uneonscionable income tax assessment and "suppress the evidence" to prove that it is wrong. "The power to tax is the power to destroy." Unless it shall be corrected by this court in a rehearing, private property is no longer safe in the United States of America.

Respectfully submitted,

PURITAN CHURCH BUILDING FUND

REV. HARRISON PARKER
Trustee

EDITH S. PARKER
Trustee

CERTIFICATE OF GOOD FAITH REQUIRED BY THE COURT'S RULE. NUMBER 58

Edith S. Parker and Rev. Harrison Parker assert that the above petition for a rehearing, is not made for delay.

EDITH S. PARKER

REV. HARRISON PARKER